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1 stipulation. (Pause)

2 Let me just confirm with each counsel that they have,
3 in fact, signed this stipulation. I'm going to ask Ms. Hummel
4 to mark this as Court Exhibit 1. And we will make copies of
5 this overnight so each party has a copy of it.

6 But just for the record, this is a stipulation
7 entitled Joint Stipulation of Facts and Admissibility of
8 Exhibits. On its face it appears to be a stipulation between
9 Mr. Kapur, the SEC and counsel for the Schwarzes, to the effect
10 that the final judgment was entered in the SEC case; that
11 Mr. Kapur had notice of it; and that he has not made payments
12 towards it. Those are the three facts, if you will, that are
13 stipulated to.

14 And then the stipulation goes on to stipulate to the
15 admissibility of Exhibits numbered SEC 1 through 30 inclusive,
16 and then Schwarz 1, and then a Defendant's 1 through 10.

17 At the end of the exhibit are the signatures of
18 Mr. Roessner for the SEC, Mr. Solotaroff for the Schwarz
19 plaintiffs and Mr. Kapur. Just going around the horn, let me
20 make sure that these are, in fact, your signatures.

21 Mr. Roessner, this appears to be actually an
22 electronic signature of yours. Is that your signature?

23 MR. ROESSNER: Yes, your Honor. It's my electronic
24 signature.

25 THE COURT: Very good. Mr. Solotaroff, is it your
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signature?

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MR. SOLOTAROFF: Yes, Judge.

THE COURT: And, Mr. Kapur, is it your signature?

MR. KAPUR: Yes, Judge.

THE COURT: I'm happy to receive, then, Government Exhibit 1. And I will receive all the exhibits that are referenced here, as well as take notice of the facts that are stipulated to.

(Court Exhibits 1 received in evidence)

THE COURT: I may have referred to it as Government Exhibit 1. My bad. Court Exhibit 1. Go ahead.

MR. ROESSNER: Your Honor, we have two additional housekeeping matters.

The exhibits that we supplied to the Court, we have an addendum, Exhibit 7. Exhibit 7 is one of the Mossack metadata e-mails. There's additional e-mails to supply to the back of Exhibit 7. And the parties have all looked at it. If I can provide these two to be inserted behind Exhibit 7.

THE COURT: Are these stipulated to? Are these part of the exhibit?

MR. ROESSNER: Yes, your Honor. I did it out of order. I should have done this part first. I'm sorry.

THE COURT: So this goes at the back of Exhibit 7 in the binder?

MR. ROESSNER: I'm sorry. Mr. Solotaroff advised the SOUTHERN DISTRICT REPORTERS, P.C.

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1 front of Exhibit 7.

2 THE COURT: Thank you. All right. And let me just go
3 around the horn again to make sure.

4 Mr. Solotaroff, you agree that the document that is
5 being handed up to me that is basically being appended to the
6 front of Exhibit 7 is within the scope of your stipulation?

7 MR. SOLOTAROFF: Yes, Judge.

8 THE COURT: Mr. Kapur, same for you?

9 MR. KAPUR: Yes, your Honor.

10 THE COURT: Thank you.

11 MR. ROESSNER: Your Honor, I have one other additional
12 document to append, and I'm sorry. It's Exhibit 20.

13 THE COURT: Go ahead.

14 MR. ROESSNER: It's the CHIPS document. That was the
15 only exhibit we submitted to the Court that did not have the
16 business record declaration. And CHIPS have provided that to
17 me last night. I wanted to include it. When CHIPS provides
18 documents, they typically produce it in an Excel spreadsheet
19 format. But when they give you a records declaration, they
20 provide it in the wire transfer. It's the typical wire
21 transfer, what you would see. And they have printed that out
22 for me. So I want to include that in the front of the CHIPS
23 database, because it has the declaration of the custodian.
24 Although we've agreed to the admissibility, I still want to
25 have that in there.

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1 THE COURT: But that is the front of Exhibit 20?
2 MR. ROESSNER: Exactly, your Honor.
3 THE COURT: Again, let me ask Mr. Solotaroff, do you
4 agree this is also properly part of Exhibit 20?
5 MR. SOLOTAROFF: Yes, Judge.
6 THE COURT: Mr. Kapur, you, too, do you also agree?
7 MR. KAPUR: Yes, your Honor.
8 THE COURT: Very good. We'll need to three-hole punch
9 this, but thank you. Thank you.
10 With that, SEC, I'm going to invite you then to call
11 your first witness. Just so that everyone is aware, what we'll
12 do is after the SEC is done with its case, and after all
13 examinations are done of the SEC witnesses, we'll then turn to
14 you, Mr. Solotaroff, if you have anything else to offer. And
15 after that, Mr. Kapur.
16 Go ahead.
17 MR. ROESSNER: Your Honor, we'd like to call Brad
18 Mroski. The commission calls Brad Mroski to the stand.
19 One other little glitch, your Honor. We at the
20 commission provided Mr. Kapur with a copy of the binder. He
21 didn't receive it yesterday. And I have given him, the
22 witness, copy of the exhibits. So we're just going to have to
23 kind of shuffle to make sure that the witness could take a look
24 at them.
25 MR. SOLOTAROFF: Judge, I'll give -- I'm probably okay
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without it.

THE COURT: Mr. Solotaroff is graciously offering his copy of the exhibit so everyone can look on. Thank you, Mr. Solotaroff.

Mr. Mroski, welcome to the court. I'll ask you to keep your voice up so that everyone can hear you.

Mr. Roessner you may inquire.

MR. ROESSNER: Thank you, your Honor.

BRAD MROSKI,

called as a witness by the Government,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. ROESSNER:

Q. Mr. Mroski, can you state your full name for the record.

A. Brad Alan Mroski.

Q. Where are you employed?

A. The United States Securities and Exchange Commission.

Q. What's your job title?

A. Assistant chief accountant in the division of enforcement.

Q. What are your job duties at the commission?

A. To perform financial and accounting fraud investigations, supervise investigations and consult on investigations.

Q. How long have you been employed by the commission?

A. It will be five years in August.

Q. Before you joined the commission where did you work?

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1 A. Deloitte & Touche.

2 Q. And what was your job title?

3 A. My most recent was senior manager in forensics and dispute
4 consulting services.

5 Q. What are your job responsibilities?

6 A. Primarily to perform financial and accounting fraud
7 investigations, internal investigations, litigation and dispute
8 consulting, antifraud programs and controls consulting.

9 Q. Mr. Mroski, do you hold any licenses?

10 A. Yes, I do.

11 Q. What are they?

12 A. I'm a Certified Public Accountant, licensed in Texas and
13 Colorado, and a Certified Fraud Examiner.

14 Q. How did you get your Certified Fraud Examiner license?

15 A. Through examination.

16 Q. Now, in this matter what were you asked to do?

17 A. I was asked to review Ms. Bina Rai's Bank of America
18 account statements for the account ending in 293 for the period
19 August of 2011 to March of 2013 -- excuse me, '13.

20 THE COURT: August 2011 through March of 2013?

21 THE WITNESS: That's correct.

22 THE COURT: Thank you.

23 Q. What account number did you say?

24 A. I can't remember the entire account number. It ended in
25 283, Bank of America account number 283. And to review and

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1 determine if there were any wires into that account, and if
2 there were, the source of those wires.

3 Q. What did you review to make this determination?

4 A. I reviewed Ms. Rai's bank account statements, primarily to
5 make that determination. And then to determine the source, I
6 reviewed CHIPS information as well.

7 THE COURT: What is CHIPS information?

8 THE WITNESS: CHIPS is the Clearing House for
9 International Payment Services. It's an electronic funds
10 transfer organization that moves money. So they keep records
11 on the sending institutions, receiving institution, information
12 such as that.

13 THE COURT: But in other words, they focus on the
14 international transfers, not on the account statements?

15 THE WITNESS: That's correct. They are the highway,
16 so to speak, between the two destinations.

17 THE COURT: Thank you.

18 BY MR. ROESSNER:

19 Q. Did you reach a determination?

20 A. Yes, I did.

21 Q. What was that?

22 A. Over that period there were two wires received into
23 Ms. Rai's account that originated from Bank Vontobel.

24 MR. ROESSNER: Your Honor, if I can approach the
25 witness and provide him with Exhibit 20.

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1 THE COURT: Yes.

2 MR. ROESSNER: Sorry. I don't think it has the new
3 addendum.

4 THE COURT: To be clear, you're handing up the
5 entirety of Exhibit 20 in evidence, which includes the
6 declaration that was handed up this morning, and added to the
7 sort of previous Exhibit 20 from Alaina Gimbert of the clearing
8 house payments company, and as well as what was behind it, the
9 horizontal charts? Mr. Roessner?

10 MR. ROESSNER: That's right, your Honor.

11 THE COURT: Thank you.

12 BY MR. ROESSNER:

13 Q. Mr. Mroski, can you identify Exhibit 20?

14 A. Yes. This is the wire remittances provided by CHIPS for
15 the funds in question.

16 Q. And have you seen an Excel spreadsheet version of these
17 wires?

18 A. I've seen an Excel spreadsheet that captures these
19 particular wires, yes.

20 Q. Now, looking through this document, can you identify the
21 transfers that took place on -- sorry. Let me start, rephrase.
22 Let me rephrase that.

23 On this wire transfer, what does this show?

24 A. Perhaps the easiest way is to go to the first transfer.
25 And the --

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1 THE COURT: What page is that?

2 THE WITNESS: That would be page -- pages aren't
3 numbered, your Honor, but page two and three of the stapled
4 copy. So after the declaration, first page.

5 THE COURT: Yes.

6 THE WITNESS: And the third page, so starting on the
7 second page, this is an original transfer. If you look up in
8 the right-hand corner, it says \$75,565. That's the amount of
9 the funds being transferred.

10 Staying on the right-hand side, if you go down to the
11 last line in the largest paragraph, it says message pay date,
12 2011, August 18th. That's the date that the funds were wired.
13 Your Honor, if it please the Court --

14 THE COURT: So August 18, 2011. Go ahead.

15 THE WITNESS: If it please the Court, I'll go through
16 the information that I believe is pertinent on this document.

17 THE COURT: Yes, by all means.

18 THE WITNESS: Moving down now to the left side, you
19 can see information BNF CHIPS supplied. That is the entity.
20 That's the benefactor, the receiver of the funds. The first
21 number underneath that is COO2340. That is a CHIPS unique
22 identifier associated with HSBC bank. The second --

23 THE COURT: Sorry. I don't see, 2340. I see. Yes.
24 Go ahead.

25 THE WITNESS: The number right underneath that, ending
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1 in 868, is the actual account number associated with that
2 benefactor account.

3 And the third number underneath that ending in B22 is
4 a swift unique identifier for the bank, also identified with
5 HSBC.

6 THE COURT: Sorry. That's a unique identifier for the
7 bank or bank account?

8 THE WITNESS: The bank, your Honor.

9 THE COURT: Okay.

10 THE WITNESS: And you can clearly see right below that
11 it actually lists the name of HSBC bank.

12 THE COURT: So \$75,565 come into account -- the
13 account ending in 868 at HSBC bank in England on August 18,
14 2011?

15 THE WITNESS: Yes, your Honor.

16 THE COURT: Okay.

17 THE WITNESS: Moving over to the right, you see ORG
18 CHIPS supplied. That's the originating institution that's
19 sending the funds. The same convention applies for the three
20 numbers underneath that. The account number that the funds are
21 being sent from ends in 298. And the sending institution is
22 Bank Vontobel in Zurich, Switzerland.

23 Moving back to the left, and below the HSBC bank
24 information, there is additional payment data. This represents
25 data that is being sent -- it's a swift code. It's

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1 communication from the sending bank to the receiving bank and
2 specific instructions for this particular transaction. You'll
3 see underneath 820 there is a code, 50K. That is the swift key
4 code for message from the ordering customer.

5 And then about halfway down that paragraph, on the far
6 left, you'll see the numbers 59, a colon and a forward slash.
7 That is swift bank's key code for message to receiving
8 customer. So back up at the 50K, the message is Family and
9 Children Charitable Foundation.

10 THE COURT: That's the receiving customer?

11 THE WITNESS: That's the sending customer, your Honor.

12 THE COURT: I'm sorry. Forgive me. Yes.

13 THE WITNESS: And under 59 the receiving customer is
14 the Winterbotham Trust Company.

15 THE COURT: Okay.

16 THE WITNESS: So in totality, what this particular
17 transaction is telling me is that \$75,565 was sent on
18 August 18th of 2011 from the Family and Children's Charitable
19 Foundation account at Bank Vontobel to the Winterbotham Trust
20 Company account at -- which was held with HSBC.

21 Moving on to the second page -- or, excuse me, the
22 third page in the packet, up at the top, the amount of this
23 transaction is \$74,817.70. You can see the transaction
24 occurred on August 23rd of 2011.

25 Going down to the beneficiary, the receiver of the
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1 funds, this is the bank account Bank of America that was asked
2 to review ending in 283 in the name of Bina Rai. There's two
3 originators --

4 THE COURT: Sorry. The 283 is on the left in the
5 middle, halfway down?

6 THE WITNESS: Far left, yes, middle of the page.

7 THE COURT: It, in fact, says Bina Rai.

8 THE WITNESS: Yes, your Honor.

9 The next subset of information there is ORG. That's
10 the originator. Account ending 8119, account name MossFon
11 escrow.

12 In the third subset of data there titled OGB is the
13 originating bank information. And that is Winterbotham Trust
14 Company.

15 THE COURT: Winterbotham, as I understand it, was the
16 receiver of the first payment, but the sender, the originator
17 of the second?

18 THE WITNESS: Winterbotham was the receiver of the
19 payment on August 18th.

20 THE COURT: Right.

21 THE WITNESS: And the sender of the payment on
22 August 23, your Honor, yes.

23 THE COURT: Thank you.

24 BY MR. ROESSNER:

25 Q. So on this, on the third page, is there a reference there
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1 to the family --

2 THE COURT: May I just -- let me just see if I
3 understand.

4 What's the relationship on page three between the
5 originator, this MossFon escrow, and OGB, the Winterbotham
6 trust?

7 THE WITNESS: The OGB is the originating bank.

8 THE COURT: I see.

9 THE WITNESS: And originator. So it would be similar
10 to the Family and Children Charitable Foundation account --

11 THE COURT: I see.

12 THE WITNESS: -- at Bank Vontobel. This would be the
13 MossFon escrow account at Winterbotham.

14 THE COURT: I see. Thank you.

15 In any event, MossFon is sending \$74,000 and change to
16 Bina Rai, is the bottom line?

17 THE WITNESS: Yes, your Honor.

18 THE COURT: Okay.

19 BY MR. ROESSNER:

20 Q. Is there a reference on this page to the Family and
21 Children Charitable Foundation?

22 A. Yes. Down at the very bottom of page three, message input,
23 if you go to the last line, there's -- a lot of this is just
24 intrabank code. And the last part of that paragraph says, loan
25 agreement between the Family and Children Charitable Foundation

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- 1 and Bina Rai.
2 Q. You reviewed Bina Rai's bank statements?
3 A. Yes, I did.
4 Q. And in the August 2011 bank statement did you identify a
5 transaction into that account for \$74,817.70?
6 A. Yes, I did.
7 Q. If you turn to Exhibit 18 in the binder. Is that the
8 transaction?
9 A. Yes.
10 Q. Do you see it on that page?
11 A. Yes, I do.
12 Q. If you can turn to the next page of Exhibit 20, the CHIPS
13 documents, which is page four on the upper right-hand corner,
14 \$72,743?
15 A. On the new documents that were received?
16 Q. Yes.
17 A. Okay.
18 Q. Is the flow of money reflected on this document the same as
19 on Exhibit -- on page two?
20 A. Yes. The facts are the same. The original sending amount
21 was for \$72,743 on January 27th of 2012 from Bank Vontobel to
22 the Winterbotham Trust Company, with a reference to the Family
23 and Children Charitable Foundation in the ordering customer
24 field.

25 And then the next page of Exhibit 20 shows \$72,000

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1 being sent from the MossFon escrow SRL account at the
2 Winterbotham Trust Company to Bina Rai's bank account ending in
3 283.

4 Q. And when you reviewed Bina Rai's bank statements for
5 January 2012, did you see a transaction for \$72,000?

6 A. Yes, I did.

7 Q. If you could turn to Exhibit 19 in the binder. Can you
8 identify that transaction?

9 A. Yes. It's posted on January 31, 2012.

10 Q. And from your review of Bina Rai's bank account, Bank of
11 America account ending 0283, were there any other large
12 transactions into that account, large wire transactions?

13 A. These were the only two wires over the period that I was
14 asked to review.

15 Q. Were there any other large deposits into that account?

16 A. I believe the large -- the single largest deposit, other
17 than these two, was for \$5,000.

18 MR. ROESSNER: Your Honor, I have no more questions
19 for Mr. Mroski.

20 THE COURT: Thank you.

21 Mr. Solotaroff, any questions from you of this
22 witness?

23 MR. SOLOTAROFF: No, Judge.

24 THE COURT: Okay. Mr. Kapur, it's now your
25 opportunity, if you would like, to question the witness. Would

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1 you like to do so?

2 MR. KAPUR: Yes, your Honor. Just a few quick
3 questions.

4 THE COURT: Why don't you go to the microphone and do
5 so, once Mr. Roessner has left.

6 MR. KAPUR: Just a few quick questions, your Honor.
7 I'm just a bit confused by the CHIPS data. I noticed on
8 Ms. Rye's statement it says --

9 THE COURT: If you wouldn't mind, just for the clarity
10 of the record, just refer to it by exhibit number, please.

11 MR. KAPUR: Sure. Your Honor, in Exhibit 18, which
12 appears to be Bina Rai's Bank of America bank statement, it
13 says a wire is coming in from HSBC USA. And then in Exhibit
14 19, on Bina Rye's bank statement, it says that there's a wire
15 coming in from Deutsche Bank Trust Company. And I'm just
16 trying to connect the wire from Vontobel to HSBC London to the
17 wire that's coming in to Ms. Rai's account from Deutsche Bank
18 and HSBC US.

19 So if you could just explain that, there seems to be
20 like a disconnect on me on these wires between third parties.

21 THE COURT: In other words, if the witness is able to
22 account for why on Exhibit 18 the wire is coming from HSBC and
23 on Exhibit 19 it's coming from Deutsche Bank, you're interested
24 in getting an explanation from the witness? Do I understand
25 you right?

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1 MR. KAPUR: Yes, your Honor.

2 THE COURT: Go ahead.

3 THE WITNESS: It's my understanding that the
4 Winterbotham Trust Company is not a CHIPS member bank. And so
5 as a result, they need to use a correspondent bank to send
6 money to participate. HSBC and Deutsche Bank are CHIPS member
7 banks, and so they use those firms to move money.

8 THE COURT: And what's your basis for that assumption?

9 THE WITNESS: A listing of the CHIPS participant banks
10 on their website.

11 CROSS EXAMINATION

12 BY MR. KAPUR:

13 Q. Do you have a list of that with you today?

14 A. As I sit here, no, I don't.

15 THE COURT: Let me just follow up to assist Mr. Kapur.

16 When was it that you checked the website to see who
17 the corresponding banks were.

18 THE WITNESS: I believe it was yesterday, your Honor.

19 THE COURT: Thank you.

20 Q. So just so I understand, you're saying that HSBC London
21 then used Deutsche Bank or HSBC US to send the wire?

22 A. I'm sorry. Could you repeat the question?

23 Q. The question is that HSBC London, who received the money,
24 then used the correspondent banks Deutsche Bank and HSBC US to
25 send the wire to Ms. Rai?

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Mroski - cross

1 A. I'm not sure if that's the case, if it was HSBC US or if it
2 was HSBC London. It was an HSBC entity and a Deutsche Bank
3 entity.

4 Q. Right. And so the HSBC London entity sent it to Deutsche
5 Bank to send to Ms. Rai? Is that your testimony?

6 A. For the second transaction, yes, that is.

7 Q. I see. And who is the beneficiary of Vontobel and the HSBC
8 banks accounts, by your CHIPS research?

9 A. I beg your pardon?

10 Q. Who are the beneficiaries of the Vontobel bank account and
11 the HSBC bank accounts?

12 THE COURT: He just didn't hear what you said. You
13 asked who the beneficiary was of one bank account and then
14 HSBC. I just didn't hear.

15 MR. KAPUR: Right. The first Bank Vontobel, I was
16 wondering if he found out through his CHIPS research who the
17 beneficiary of Bank Vontobel and of the HSBC London bank
18 account were.

19 A. I don't -- if you're looking for a name, I don't have that.
20 I have the account number. And I have the account name.

21 Q. I see. Does the SEC have a New York office? Just a
22 general question.

23 A. Does the SEC have a New York office?

24 Q. Yes.

25 A. Yes, we do.

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